IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE NINETEENTH DAY OF NOVEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE B.PRAKASH RAO

WRIT PETITION NO : 25138 of 2002

Between:

V.Nageswara Rao, son of Subba Naidu

Aged 32 yrs, r/oAmuduru village,

Dakkili mandal, Nellore dist.

..... PETITIONER

AND

1.The Joint Collector, Nellore.

2.The Revenue Divisional Officer, Gudur, Nellore dist.

3.The Mandal Revenue Oficer, Dakkili mandal, Nellore dist.

4.P.Ramakrishna Kumari, wife of P.Anjaneyulu

Teacher, St.Mary Kerala English Medium School

Near Gandhi Statute, Velamapalem, Venkatagiri town

Nellore dist.

....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the

circumstances stated in the Affidavit filed herein the High Court may be pleased to issue writ of mandamus or any other appropriate writ or direction declaring the order of the 1st respondent passed in D.Dis.No. E/646/2002 dated 14-11-2002 as illegal arbitrary and is in violation of principles of natural justice and set aside the same.

Counsel for the Petitioner: MR.O.MANOHER REDDY

Counsel for the Respondent Nos. 1 to 3:GP FOR CIVILSUPPLIES

Counsel for the Respondent No.4: None appeared.

The Court made the following :

ORDER

Heard the learned counsel for the petitioner and also the learned Government Pleader appearing on behalf of the respondents 1 to 3. Though served, none appears for the respondent no.4.

The petitioner herein seeks Writ of Mandamus as against the orders of the 1st respondent dated 14-11-2002 allowing the appeal at the instance of the 4th respondent as against his appointment as fair price shop dealer as per the proceedings, dated 1-4-2002.

The case of the petitioner in brief is that in pursuance of the notification issued on 4-2-2002, the petitioner and 4th respondent along with others have filed applications. After the interviews are held, the 2nd respondent has selected the petitioner. However, on appeal, the appellate authority viz., the 1st respondent set aside the same on the ground that the 4th respondent is a Graduate and whereas the petitioner is only S.S.C.

The learned counsel appearing for petitioner submits that having regard to the fact that the petitioner complies minimum educational qualifications, mere possession of higher educational qualification cannot be a ground for setting aside the same. Further, the 2nd respondent, having satisfied with the

petitioner's performance, rightly appointed the petitioner whereas the performance of the 4th respondent was found to be not satisfactory.

It is seen that this Court has granted interim suspension of the impugned orders as per order in WPMP No.31707 of 2002 dated 20.12.2002 and the same is still subsisting. Further the 4th respondent is not appearing in this case. Apparently he is not interested in dealership as now being sought. In the circumstances and especially in view of the fact that the petitioner is fully qualified and the satisfaction being recorded by the appointing authority, there cannot be any such variation merely based upon the possession of higher educational qualification.

The Writ Petition is accordingly, allowed and the impugned order dated 14-11-2002 is set aside confirming the order of appointment of the petitioner dated 1-4-2000. No costs.

19-11-2004.

Hsd

That Rule Nisi has been made absolute as above.

Witness Sri Devinder Gupta, the Hon'ble the Chief Justice, on this the 19th day of November, 2004.

Assistant Registrar.

To

1.The Joint Collector, Nellore.

2.The Revenue Divisional Officer, Gudur, Nellore dist.

3.The Mandal Revenue Officer, Dakkili mandal, Nellore dist.

4. 2 C.Cs. to G.P. for Civil Supplies, High Court Buildings, Hyderabad

(OUT)

5. 2 C.D. copies.